

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

In re:

ROBERT J. PAVLICK, JR.  
KELLY L. PAVLICK  
AKA KELLY L. MCLEAREN  
FKA KELLY LEE MCLEAREN,

Debtors.

CHAPTER 7

CASE NO. 10-11885-SSM

PNC MORTGAGE, A DIVISION OF  
PNC BANK, N.A., SUCCESSOR BY  
MERGER TO NATIONAL CITY  
MORTGAGE, A DIVISION OF  
NATIONAL CITY BANK,

Plaintiff.

vs.

ROBERT J. PAVLICK, JR.  
KELLY L. PAVLICK  
RICHARD A. BARTL, TRUSTEE,

Defendants.

**MOTION FOR RELIEF**

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FOURTEEN (14) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FOURTEEN (14) DAY PERIOD.

**ATTEND THE PRELIMINARY HEARING SCHEDULED TO BE HELD ON  
MAY 5, 2010 AT 9:30 A.M. IN THE U.S. BANKRUPTCY COURT,  
ALEXANDRIA DIVISION, 200 SOUTH WASHINGTON STREET,  
ALEXANDRIA, VA – COURTROOM #1, 2ND FLOOR.**

NOTICE FROM SAMUEL I. WHITE, P.C.

PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P.C., COUNSEL FOR THE PLAINTIFF, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.

**MOTION FOR RELIEF**

The Motion of PNC Mortgage, a Division of PNC Bank, N.A., successor by merger to National City Mortgage, a Division of National City Bank, by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.
2. The Debtors filed a Petition under Chapter 7 of the Bankruptcy Code on March 12, 2010.
3. The Debtors are the owners of the real property located at 18248 Yellow Schoolhouse Road, Round Hill, VA 20141, which property is described as:

**All that certain tract or parcel of land containing 16.6576 acres, more or less, designated as Lot 9, together with a 30-foot wide private access easement for access and public utilities, together with appurtenances thereunto appertaining, situate, lying and being in Blue Ridge Magisterial District, formerly Mt. Gilead Magisterial District, Loudoun County, Virginia, as shown on that certain plat of C. Terry Titus, C.L.S., dated 27 October 1976 and referred to as Division of a portion of the land of William A. Kelley, of record in the Clerk's Office of the County aforesaid in Deed Book 656, at Page 776, and more particularly described as follows:**

**Beginning at an iron pipe set in the Northeasterly line of Lot 10, Division of a portion of the land of William A. Kelley, said iron pipe also marks the Southernmost corner of Lot 8, Division of a portion of the land of William A. Kelley; thence departing Lot 10 and running along Lot 8, N 47 degrees 27' 29" E. 1722.77 feet to a stone found marking a corner to Byrne; thence departing Lot 8, and running along Byrne, S. 05 degrees 32' 50" E. 732.45 feet to a stone found in the Northwesterly line of Dawson; thence departing Byrne and running along Dawson, S 58 degrees 26' 34" W. 1370.00 feet to an iron pipe set marking a corner to the aforementioned Lot 10, Division of a portion of the land of William A. Kelley; thence departing Dawson and running along Lot 10, N 31 degrees 33' 26" W. 330.00 feet to the point of beginning, containing 16.7576 acres, more or less, as shown on a plat prepared by C. Terry Titus, C.L.S., dated October 27, 1976.**

**TOGETHER WITH a 30-foot wide private access easement for access to Lot 9, from Virginia State Route No. 831, running along and parallel to the southerly boundary lines of Lots 3 and 8, division of a portion of the land of William A. Kelley, as shown on the said plat, for ingress, egress and public utilities.**

4. Upon information and belief, Plaintiff is the holder and/or servicer of a certain Deed of Trust Note dated May 30, 2007, which Note is secured by a Deed of Trust of even date therewith and duly recorded.

5. The account is in arrears for 15 monthly mortgage installments. The approximate reinstatement amount through March 22, 2010 is \$13,240.00, calculated as follows:

15 monthly payments (01/01/09-03/01/10) @ \$760.00/month	\$11,400.00
Accrued Late Charges	1,140.00
Bankruptcy Fees and Costs - Motion For Relief	700.00
Total	\$13,240.00

6. The unpaid principal balance due on said note is \$114,000.00, and the present approximate payoff balance is \$127,250.00.

7. It is the opinion of the Plaintiff that the Debtors are financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

8. Debtors' Statement of Intention indicates surrender of the property.

**WHEREFORE**, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the institution of foreclosure proceedings, and further requests that the fourteen (14) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

PNC MORTGAGE, A DIVISION OF PNC BANK,  
N.A., SUCCESSOR BY MERGER TO NATIONAL  
CITY MORTGAGE, A DIVISION OF NATIONAL CITY  
BANK

By: **/s/ ERIC DAVID WHITE**

Of Counsel

Samuel I. White, P. C.

Eric David White, Esquire, VSBN 21346

Randa S. Azzam, Esquire, VSBN 31539

D. Carol Sasser, Esquire, VSBN 28422

1804 Staples Mill Road, Suite 200

Richmond, VA 23230

**CERTIFICATE**

I hereby certify that a true copy of the foregoing Motion and Notice of Hearing was served by regular mail or email this 22nd day of March, 2010, on all necessary parties including Richard A. Bartl, Trustee, 300 North Washington Street, Suite 202, Alexandria, VA 22314; Scott Alan Weible, Esquire, Counsel for Debtors, 14540 John Marshall Highway, Suite 201, Gainesville, VA 20155-1693; and Robert J. Pavlick, Jr. and Kelly L. Pavlick, Debtors, 18248 Yellow Schoolhouse Road, Round Hill, VA 20141.

**/s/ ERIC DAVID WHITE**

Samuel I. White, P. C.